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6 GLASSDOOR, INC.

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8 **UNITED STATES DISTRICT COURT**

9
10 **NORTHERN DISTRICT OF CALIFORNIA**

11
12 **SAN FRANCISCO DIVISION**

13 In Re: Petition for Judicial Assistance for
14 the Issuance of a Subpoena Pursuant to 28
15 U.S.C. § 1782 to Obtain Discovery for Use
in a Foreign Proceeding.

16 DIGITAL SHAPE TECHNOLOGIES,
17 INC. and RADOMIR NIKOLAJEV,

18 Petitioners.

19 v.

20 GLASSDOOR, INC.,

21 Respondent.

Misc. Case No. 3:16-mc-80150-JSC

**DECLARATION OF THOMAS O'BRIEN
IN SUPPORT OF RESPONDENT
GLASSDOOR, INC.'S OPPOSITION TO
PETITIONERS DIGITAL SHAPE
TECHNOLOGIES, INC.'S AND RADOMIR
NIKOLAJEV'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS**

DECLARATION OF THOMAS O'BRIEN

1. I am the Deputy General Counsel of Respondent Glassdoor, Inc. ("Glassdoor").

2. Glassdoor operates glassdoor.com, which provides a forum for current and former employees of companies to anonymously voice opinions regarding those businesses. An employee can express an opinion about an employer on glassdoor.com by posting a "review," in which the employee assigns the employer between one and five stars in a number of categories, and discusses the employer's "pros and cons." Glassdoor does not compose or edit the reviews posted on its site.

3. Glassdoor has no employees, assets or bank accounts in Canada. Glassdoor is not licensed to do business, has not incurred or paid taxes, and has no agent for service of process, in Canada. Glassdoor does not own or lease any servers in Canada, and the glassdoor.ca site, which Glassdoor operates, is not hosted on servers in Canada.

4. The glassdoor.ca site is a "mirror" of the glassdoor.com site, meaning it has the same content as glassdoor.com (with minor exceptions unrelated to the content of employer reviews, such as its references to Canadian currency and the metric system), but uses a different uniform resource locator ("URL") or web address.

5. Petitioners Digital Shape Technologies, Inc. ("DST") and Radomir Nikolajev did not serve Glassdoor with a subpoena, or any other form of legally sanctioned discovery request, in the defamation action Petitioners filed in Quebec, Canada that is the subject of this motion (the "Quebec Action"). As Glassdoor, due to its lack of contacts with Canada, is not subject to personal jurisdiction there, Glassdoor did not appear in the hearing on Petitioners' motion to compel Glassdoor to produce documents in the Quebec Action.

6. Regarding the March 7, 2013 employer review of DST on glassdoor.ca that Petitioners attribute to Kelly Mikulec, no users posted comments on that review.

7. Glassdoor does not release statistics concerning viewership of its site to the public, and Glassdoor's "proprietary operating procedures and systems" are among the items Glassdoor employees agree to protect in a Proprietary Information and Inventions Agreement they execute as a condition of their employment. If competing employment-related websites learned the size

1 of Glassdoor's user base and the location of its users, they could draw inferences about the
2 success of Glassdoor's business strategies and reformulate their own strategies accordingly.

3 8. Attached as Exhibit A is a true and correct copy of an employer review of DST
4 posted on glassdoor.ca on March 7, 2013.

5 9. Attached as Exhibit B is a true and correct copy of the front page of glassdoor.ca
6 as of the date of this declaration, which is available at <https://www.glassdoor.ca/>.

7 10. Attached as Exhibit C is a true and correct copy of the Terms of Use of
8 glassdoor.ca as of the date of this declaration, which are available at
9 <https://www.glassdoor.ca/about/terms.htm>.

10 11. Attached as Exhibit D is a true and correct copy of a letter Petitioners' counsel
11 wrote to Glassdoor dated February 11, 2016.

12 12. Attached as Exhibit E is true and correct copy of an e-mail from Glassdoor's legal
13 department to Petitioners' counsel dated February 24, 2016.

14 13. Attached as Exhibit F is a true and correct copy of the "Application for Disclosure
15 and Communication of Documents Relating to a Dispute" filed by Petitioners in the Quebec
16 Action on April 19, 2016.

17 14. Attached as Exhibit G is a true and correct copy of an order issued by the court in
18 the Quebec Action on June 16, 2016.

19 15. Attached as Exhibit H is a true and correct copy of a section of the glassdoor.ca
20 site's Privacy Policy, entitled "How We Share Information," which is available at
21 <https://www.glassdoor.ca/about/privacy-sharing.htm>.

22 16. I declare under penalty of perjury that the foregoing is true and correct.

23 Dated: September 8, 2016

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25
26 THOMAS O'BRIEN